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ABSTRACT

This kit contains materials for educational activities that foster employment of people with disabilities. The materials can be used for programs to celebrate the anniversary of the Americans with Disabilities Act (ADA) and National Disability Employment Awareness Month, as well as on other occasions. An introduction lists examples of activities to promote employment of individuals with disabilities that were carried out in 1998 and provides a sampling of materials that can be ordered from the President's Committee on Employment of People with Disabilities to assist with educational programs. Following the introduction, perforated pages suitable for reproduction discuss the following topics: (1) attitudinal barriers; (2) making management decisions about accommodations; (3) preparing for and conducting an effective job interview with a person with a disability; (4) disability data resources; (5) significant court cases under Title 1 of the ADA; (6) temporary employment options for people with disabilities; (7) technology and people with disabilities; and (8) writing and formatting a scannable resume. (CR)

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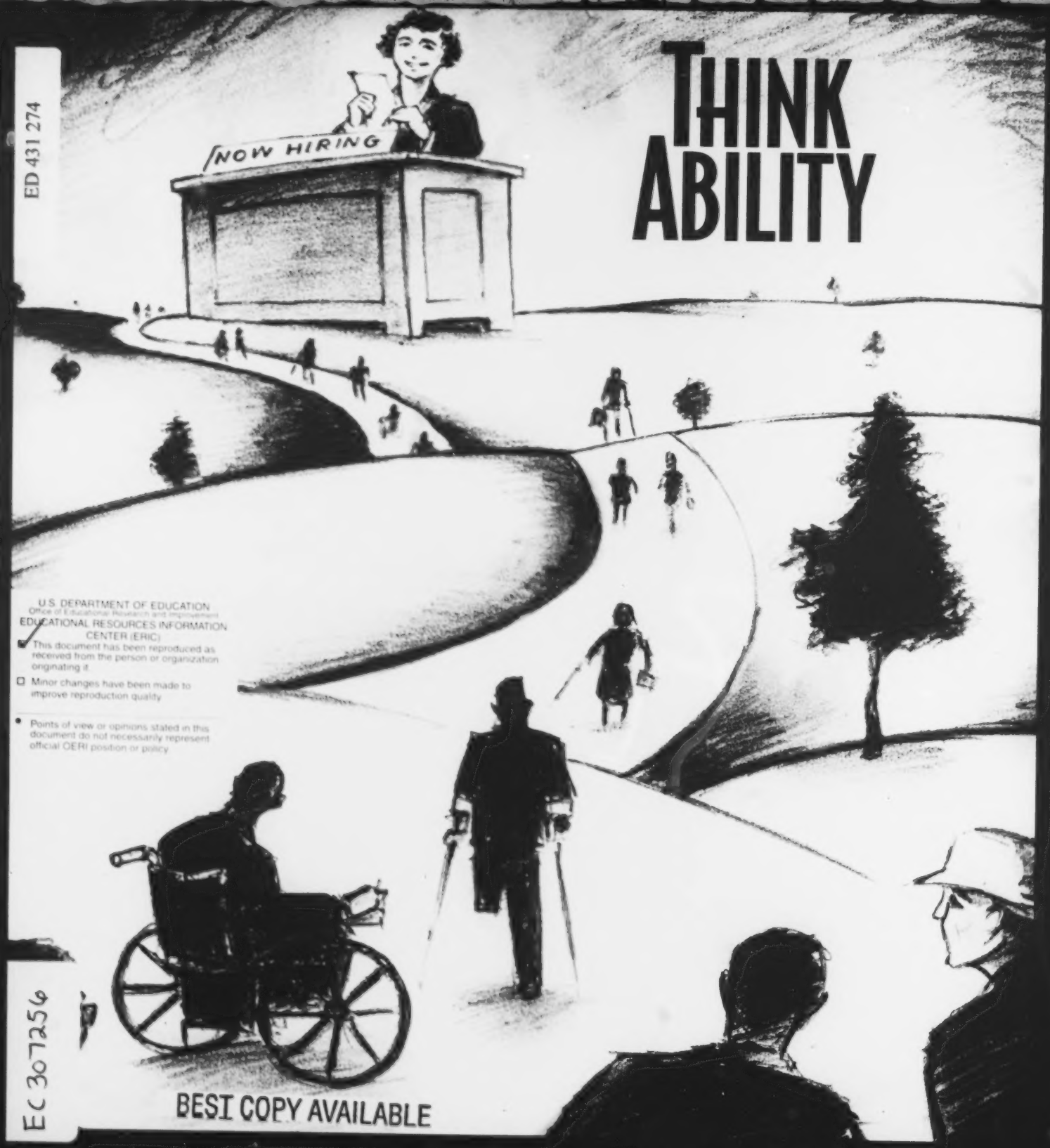

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PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

EDUCATIONAL KIT 1999

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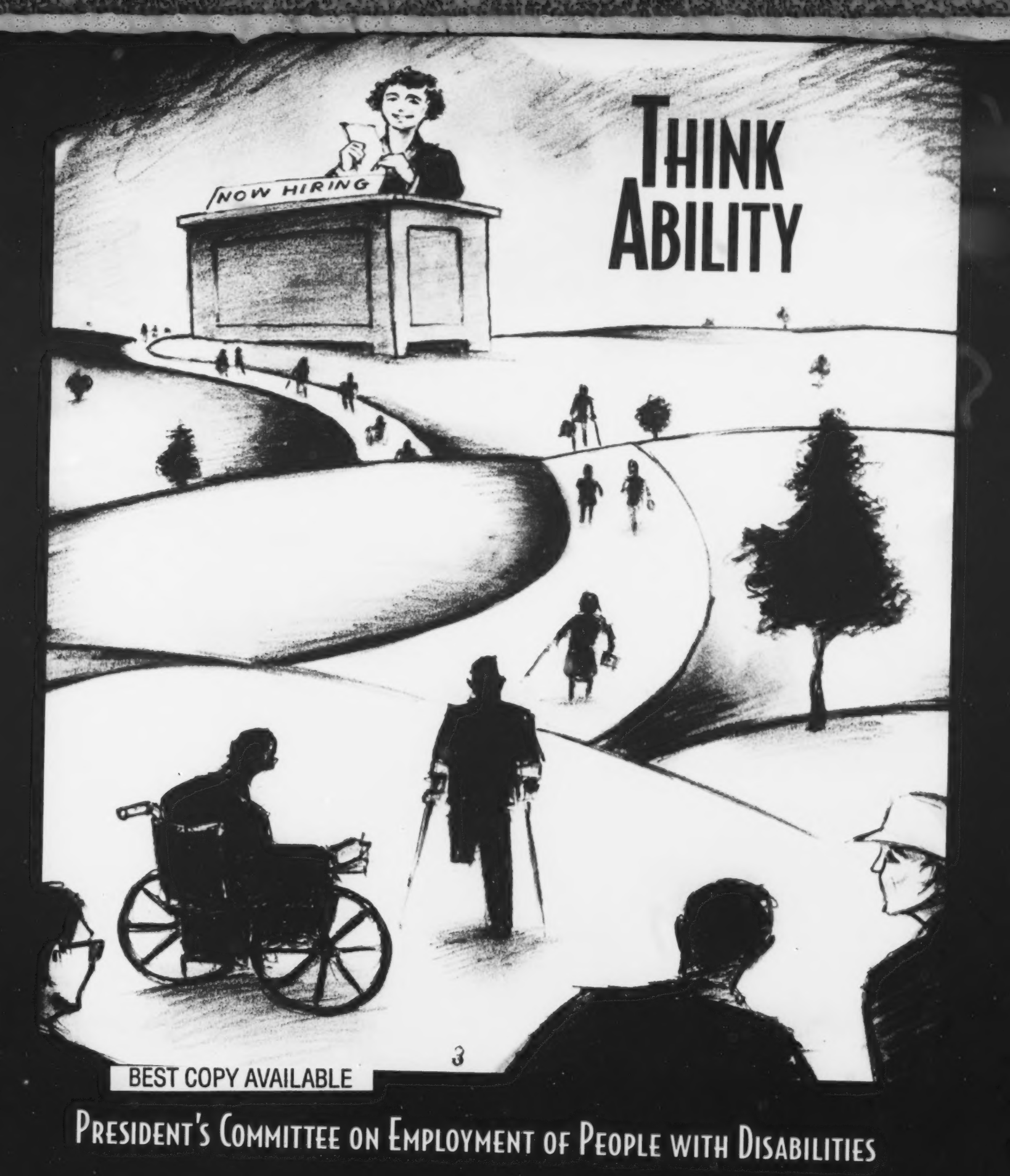

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PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

A Message from Chairman Tony Coelho

"Think Ability." The theme of this year's education program conveys a simple yet critical message: Attitude is the key to raising the level of employment for people with disabilities.

Ten years ago, as a Congressman, I had the privilege of introducing the Americans with Disabilities Act in the House of Representatives. Today, I am frequently asked how the employment scene has improved for people with disabilities. Have we made progress?

The answer, without a doubt, is yes. During just the first three years after ADA was passed, more than 800,000 adults with severe disabilities went to work. As more and more individuals enter and re-enter the workforce, our example helps to erode deeply rooted stereotypes, myths and misconceptions. But for the millions of people with disabilities still waiting for the opportunity to prove themselves, statistics are not very encouraging.

The staggering unemployment rate facing Americans with disabilities is a problem that affects all of our citizens, and it is up to everyone to confront his or her own attitudes. By making a conscious effort, each of us can make a difference.

Employers who actively recruit qualified employees with disabilities often discover untapped skills, talents and aspirations—and much more. As a group so often overlooked, those of us with disabilities are among the most loyal, committed and motivated employees. We are natural problem solvers, and contribute valuable consumer perspectives regarding what the disability market needs and wants.

Educators, service providers and family members should encourage young people with disabilities, as well as individuals who acquire disabilities during adulthood, to pursue their career interests. Preparation for the workplace may involve any combination of academic study, vocational training and work experience. Opportunities to develop social and leadership skills are important, too.

Finally, those of us with disabilities must believe in ourselves. A positive mindset and self-advocacy can be our most powerful assets. Success is contagious. Day by day, one person at a time, we are tackling the barriers blocking the path to employment.

Landmark civil rights legislation to protect the 54 million Americans with disabilities—and those who will inevitably join our ranks in the future—was only a first step. As we round the last lap toward the next century, hurdling attitudinal barriers remains our greatest challenge.

Tony Coelho

Tony Coelho

Introduction

The 1999 Educational Kit will help the reader with educational activities that foster employment of people with disabilities. The materials can be used for programs held to celebrate the anniversary of the Americans with Disabilities Act (ADA) in July and National Disability Employment Awareness Month (NDEAM)in October. In addition, community and company events, coupled with newspaper articles, and linked to Martin Luther King Jr. Day in January, African American History Month in February, National Women's History month in March, Secretaries Day in April, Labor Day in September and Veterans Day in November offer opportunities to focus on the employment of people with disabilities.

Nine years ago, on July 26, 1990, the Americans with Disabilities Act was signed into law. The ADA, which prohibits discrimination on the basis of disability, is blazing a path of opportunity in the workplace for millions of Americans with disabilities.

Pre-dating ADA by nearly a half century, Public Law 176 was enacted by Congress in 1945. P.L. 176 designated the first week in October as "National Employ the Physically Handicapped Week," and the President's Committee on Employment of People with Disabilities was appointed by President Truman to carry out this Act. In 1962, the word "physically" was removed from the week's name to recognize the employment needs of all Americans with disabilities. Congress, in 1988, expanded the week to a month and changed its name to "National Disability Employment Awareness Month." October has become the kick-off month for year-round programs that highlight the abilities and skills of Americans with disabilities.

The theme for this year's educational program is **"Think Ability."** Over the last decade many changes have taken place in the fabric of life for persons with disabilities. Laws have been passed that are breaking through many of the barriers which have kept people with disabilities out of the mainstream. However, we cannot legislate against attitudinal barriers; that is the one frontier which each of us must confront. We must all work to remove the negative and stereotypical attitudes from our minds, writings and actions.

For too long, people with disabilities have been depicted in the written and spoken word as caricatures—some evil, some to be pitied and all to be avoided. None of these images reflect people with disabilities who have skills and talents needed by today's employers. We must work together to remove the old "eight tracks" from our minds and replace them with new "CDs." Remember: you cannot interview, hire, supervise or promote a disability. You can interview, hire, supervise and promote an individual with a disability. In making employment decisions, we must think ability.

Listed below are examples of activities to promote employment of individuals with disabilities that were carried out in 1998. The President's Committee encourages readers to adopt or adapt similar activities for an exciting and productive year-long educational campaign.

- CACI International, Inc. held a month-long educational and awareness program. The program included letters from the president of the company to all employees and visitors regarding the educational program and their recruitment efforts. The company used National Disability Employment Awareness month as the kick-off for their year-long recruitment effort to locate qualified applicants with disabilities who meet their hiring needs. The letters were distributed and on display in the reception area. The company developed and distributed informational sheets based on material from the Educational Kit to all employees, displayed them in the reception area, and posted them in common areas of the headquarters facility. CACI also initiated a program to establish new recruitment relationships with disability related organizations.

- The Council on Disability Concerns of the Oklahoma Federal Executive Board developed and implemented a leadership forum for college students with disabilities. The eight-month forum's purpose was to aid the students in developing skills for entering the work world. Monthly workshops included the following topics: *Effective Presentations and Speeches*, *Resume Preparation*, *Marketing Yourself*, *Mock Interviews*, *Entrepreneurship* and *Seven Habits of Highly Effective People*. A graduation ceremony was part of the Interagency Council's program for National Disability Employment Awareness month.

- The Commission for Children with Special Health Care Needs' Disability Support Group for High Schoolers and Young Adults, Paducah, KY had a

booth at the Super Wal-Mart. At the booth, they handed out blue ribbons with "October is National Disability Employment Awareness Month"on them. They asked people to wear the ribbons in support of the students getting jobs in the future. They gave out posters, fact sheets from the Educational Kit and material on the ADA. The local newspaper ran an article about one of the participants who is working as a dispatcher for the local transit system.

- The Pennsylvania Governor's Committee on Employment of People with Disabilities held a training conference in Philadelphia, PA. During the conference, Governor Ridge's administration announced a new one million dollar program, the *Independence Capital Access Network Fund*, that will make grants to small employers to make accommodations for persons with disabilities.

- The Able Trust, in conjunction with the Florida Division of Vocational Rehabilitation, held a symposium on employment of people with disabilities in Tampa, FL. The symposium offered workshops on topics such as technology, accommodations, community partnerships, tax incentives for business, hiring and sensitivity training. A public policy forum and trade show were other elements of the symposium.

- St. Paul FlexWork, in St. Paul, MN, hosted an open house that featured demonstrations of adaptive software used to assist individuals with disabilities to remain in the workforce, and ergonomic work stations which prevent workplace injuries.

- The U.S. Chamber of Commerce provided the Educational Kit to members of its Health and Employee Benefits/Pensions Committee, its state and metropolitan chapters, the Education, Employment and Training Committee and the Labor Committee.

- Home Box Office (HBO), New York City, held a panel discussion on disabilities in the workplace. The panel featured actor Christopher Reeve; Bill Paul, retired former Executive Vice President of United Technologies; Andy Imperato, General Counsel/Director of Policy, National Council on Disability; and Mikki Lam of Just One Break (JOB) and was moderated by television news anchor-woman Bree Walker. The discussion was taped by C-SPAN and aired four times. The company's diversity newsletter, *Perspectives*, was published to support the disabilities panel discussion. The newsletter included articles which used materials from the Educational Kit fact sheets and interviews about disabilities in the workplace issues.

Remember: These examples only provide a starting point. Let your imagination be your guide. Please send descriptions of your activities to the President's Committee to share with others.

Additional Materials

Below is a sampling of materials that you may order from the President's Committee on Employment of People with Disabilities to assist with your educational program. These materials and others can be accessed at the President's Committee's Web site, <http://www.pcepd.gov>.

- JAN: Opening Doors to Job Accommodation (1998)
- Affirmative Action and People with Disabilities (1998)
- Recruitment Resources (1998)
- Providing Quality Services to Customers with Disabilities (1998)
- Hiring People with Disabilities (1997)
- Marketing to Customers with Disabilities (1997)
- Personal Assistance Services in the Workplace (1997)
- What To Do If You Think You Have Been Discriminated Against (1997)
- What Does Business Really Think About the ADA? (1996)
- Dispelling Myths About the Americans with Disabilities Act (1996)
- Employment Checklist for Hiring Persons with Disabilities (1996)
- Communicating With and About People with Disabilities (1995)
- Job Analysis-An Important Employment Tool (1994)

Acknowledgments: *Members of the President's Committee's Employer and Communications Subcommittees provided valuable assistance in developing the fact sheets contained in this kit.*

This publication is available in alternate formats

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President's Committee on Employment of People with Disabilities
1331 F Street, NW, Washington, DC 20004-1107
http://www.pcepd.gov

Attitudinal Barriers

In the "Quagmire" episode of the television series *The X-Files*, Agent Mulder, discussing Moby Dick's Captain Ahab, tells Scully he always wished he had a physical disability. His reasoning: because society doesn't expect much from people with disabilities, he wouldn't have to work so hard to prove himself. Without a disability, Mulder would be considered lazy or a failure if he didn't work, whereas with a disability, he would have an excuse for slacking and would be called "courageous" for merely holding a job, let alone succeeding.

The fact that a respected character on one of America's most popular television shows expressed this viewpoint exemplifies the rampant attitudinal barriers hindering people with disabilities in or trying to enter the workforce.

People with disabilities face many barriers every day—from physical obstacles in buildings to systemic barriers in employment and civic programs. Yet, often, the most difficult barriers to overcome are attitudes other people carry regarding people with disabilities. Whether born from ignorance, fear, misunderstanding or hate, these attitudes keep people from appreciating—and experiencing—the full potential a person with a disability can achieve.

The most pervasive negative attitude is focusing on a person's disability rather than on an individual's abilities. A lawyer is effective if he or she has a solid grasp of law and can present a complete case before a jury or judge; that the lawyer accesses law books through a Kurzweil reader because he or she is blind is immaterial to the job skill. A rancher is effective if she or he feeds the cattle and mends the fences; that the rancher with paraplegia operates a cattle feeder system in the bed of a truck via a rod from the cab or rides an all-terrain vehicle to reach fences is immaterial to the job skill. A stocker in a factory is effective if he or she packages the proper number of items in each bin; that the stocker, because of a developmental disability that limits attention span, uses a counting device is not only immaterial to the job skill, but can make—and has made—that person the most accurate stocker on the factory floor.

Agent Mulder expresses a more insidious attitude—that society doesn't expect people with disabilities to perform up to standard, and when people with disabilities do, they are somehow courageous. This attitude has the effect of patronizing people with disabilities, usually relegating them to low-skill jobs, setting different job standards (sometimes lower standards which tend to alienate co-workers, sometimes higher standards to prove they cannot handle a job), or expecting a worker with a disability to appreciate the opportunity to work instead of demanding equal pay, equal benefits, equal opportunity and equal access to workplace amenities.

Attitudinal Barriers

People with disabilities encounter many different forms of attitudinal barriers.

♦Inferiority

Because a person may be impaired in one of life's major functions, some people believe that individual is a "second-class citizen." However, most people with disabilities have skills that make the impairment moot in the workplace.

♦Pity

People feel sorry for the person with a disability, which tends to lead to patronizing attitudes. People with disabilities generally don't want pity and charity, just equal opportunity to earn their own way and live independently.

♦Hero worship

People consider someone with a disability who lives independently or pursues a profession to be brave or "special" for overcoming a disability. But most people with disabilities do not want accolades for performing day-to-day tasks. The disability is there; the individual has simply learned to adapt by using his or her skills and knowledge, just as everybody adapts to being tall, short, strong, fast, easy-going, bald, blonde, etc.

♦Ignorance

People with disabilities are often dismissed as incapable of accomplishing a task without the opportunity to display their skills. In fact, people with quadriplegia can drive cars and have children. People who are blind can tell time on a watch and visit museums. People who are deaf can play baseball and enjoy music. People with developmental disabilities can be creative and maintain strong work ethics.

◆The Spread Effect
People assume that an individual's disability negatively affects other senses, abilities or personality traits, or that the total person is impaired. For example, many people shout at people who are blind or don't expect people using wheelchairs to have the intelligence to speak for themselves. Focusing on the person's abilities rather than his or her disability counters this type of prejudice.

◆Stereotypes
The other side of the spread effect is the positive and negative generalizations people form about disabilities. For example, many believe that all people who are blind are great musicians or have a keener sense of smell and hearing, that all people who use wheelchairs are docile or compete in paralympics, that all people with developmental disabilities are innocent and sweet-natured, that all people with disabilities are sad and bitter. Aside from diminishing the individual and his or her abilities, such prejudice can set too high or too low a standard for individuals who are merely human.

◆Backlash
Many people believe individuals with disabilities are given unfair advantages, such as easier work requirements. Employers need to hold people with disabilities to the same job standards as co-workers, though the means of accomplishing the tasks may differ from person to person. The Americans with Disabilities Act (ADA) does not require special privileges for people with disabilities, just equal opportunities.

◆Denial
Many disabilities are "hidden," such as learning disabilities, psychiatric disabilities, epilepsy, cancer, arthritis and heart conditions. People tend to believe these are not bona fide disabilities needing accommodation. The ADA defines "disability" as an impairment that "substantially limits one or more of the major life activities." Accommodating "hidden" disabilities which meet the above definition can keep valued employees on the job and open doors for new employees.

◆Fear
Many people are afraid that they will "do or say the wrong thing" around someone with a disability. They therefore avert their own discomfort by avoiding the individual with a disability. As with meeting a person from a different culture, frequent encounters can raise the comfort level.

Breaking Down Barriers

Unlike physical and systematic barriers, attitudinal barriers that often lead to illegal discrimination cannot be overcome simply through laws. The best remedy is familiarity, getting people with and without disabilities to mingle as coworkers, associates and social acquaintances. In time, most of the attitudes will give way to comfort, respect and friendship.

Tips for interacting with people with disabilities:

- Listen to the person with the disability. Do not make assumptions about what that person can or cannot do.
- When speaking with a person with a disability, talk directly to that person, not through his or her companion. This applies whether the person has a mobility impairment, a mental impairment, is blind or is deaf and uses an interpreter.
- Extend common courtesies to people with disabilities as you would anyone else. Shake hands or hand over business cards. If the person cannot shake your hand or grasp your card, they will tell you. Do not be ashamed of your attempt, however.
- If the customer has a speech impairment and you are having trouble understanding what he or she is saying, ask the person to repeat rather than pretend you understand. The former is respectful and leads to accurate communication; the latter is belittling and leads to embarrassment.
- Offer assistance to a person with a disability, but wait until your offer is accepted before you help.
- It is okay to feel nervous or uncomfortable around people with disabilities, and it's okay to admit that. It is human to feel that way at first. When you encounter these situations, think "person" first instead of disability; you will eventually relax.

This tip sheet was prepared with the help of freelance writer Eric Minton, a member of the President's Committee on Employment of People with Disabilities Communications Subcommittee.

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1331 F Street, NW, Washington DC 20004-1107
http://www.pcepd.gov

Making Management Decisions about Accommodations

An accommodation in the workplace is a reasonable adjustment to a job or work environment that makes it possible for an individual with a disability to perform job duties. Put another way, an accommodation is an investment an employer makes in his or her business in order to make the business more efficient or profitable. For example, when word processing systems were proven to be much more efficient than typewriters, businesses invested in personal computers for their employees. Similarly, employers send employees to staff training classes and seminars to upgrade their skills. Decisions about making worksite accommodations for people with disabilities should be made in the same light as decisions about staff training or buying new office equipment. Successful accommodations are beneficial both to the employee and the employer.

Some Issues to Consider

When an employee with a disability requests an accommodation, the employer and employee should discuss the job duties, how the accommodation will assist the individual in performing his or her job, and possible alternative solutions. Among the issues to be considered are:

- What are the functional limitations of the individual seeking the accommodation?
- What specific job tasks are affected by the individual's functional limitations?
- What types of equipment are used/needed to perform the job?
- Are there work place policies or procedures that affect the individual's ability to perform the job?
- Are all the necessary areas of the work environment accessible for this individual?

Where to Find Assistance

One resource available to both the employer and the employee in the accommodation decision-making process is the President's Committee's Job Accommodation Network (JAN), accessed via a toll-free telephone call (800-ADA-WORK). JAN consultants will ask questions about the specific situation and will recommend adjustments in the worksite, administrative actions or product options that might be effective. Conversations with JAN consultants are confidential.

Fear or lack of information, both on the part of the employer and the employee, may be the greatest impediments. Both employers and employees should feel free to ask questions about the accommodation itself, as well as issues related to the accommodation.

Questions Employers Might Ask

- How do I determine a reasonable accommodation for this particular situation?
- Where can my company obtain these products and is it possible to purchase equipment on a trial basis, or is there a facility near the place of business where the equipment may be tested?
- What if the accommodation doesn't work?
- Where can I find local resources for services like worksite evaluations?
- Who pays for the accommodation?

How a Satisfactory Solution is Reached

Since the implementation of the ADA, inquiries to JAN about accommodations have become increasingly complex. Following are examples of both complex and simple accommodations made by employers who have consulted JAN.

Case Study

Situation: *A nurse was diagnosed with an allergy to latex. All gloves used in the medical facility are made of latex.*

Solution: Although the medical facility had already determined that it wanted to be proactive in preventing latex sensitivity among its staff and patients, recognition of the LPN's latex sensitivity prompted immediate attention to the initiative. The employee was given time off with pay until her unit could be cleaned to prevent exposure to latex powder. The employee also met with a latex allergy prevention team to discuss accommodations. The medical/surgical unit was made a powder-free glove unit. The employee was provided latex-free sterile gloves and vinyl gloves for non-sterile situations, as well as a latex-free stethoscope and tourniquets. To fully address the issue, the medical facility provided mandatory latex allergy

education for all staff, implemented allergy assessment screening for all patients and new employees, as well as for employees exhibiting symptoms of latex sensitivity, and replaced other latex products, such as rubber bands and mouse pads, throughout the facility. This single request for an accommodation accelerated a broad initiative that took two years to fully implement, but benefitted all the staff and patients. Cost: $1,500-$1,800.

Other Accommodation Examples

Situation: *A sewing machine operator experienced grand mal seizures and requested accommodation based on safety issues.*

Solution: The sewing machine was relocated so that, if the individual had a seizure, she would not fall onto the machine or other potentially harmful objects. In addition, a local epilepsy affiliate provided education to the staff on seizures and first aid. Cost: $0.

Situation: *An individual who lacked range of motion in his wrist worked in a laboratory. One of his job tasks required that he manipulate a small box of "wafers" by rotating the box a one-quarter turn into a machine. The lack of wrist movement prevented him from performing this task.*

Solution: By placing a slant board on the table in front of the machine, the individual could place the wafer tray on the slant board at an angle and bump it in place effectively with his body. Cost: $40.

Situation: *An employer was considering hiring an applicant with a hearing impairment for a material handling position. The employer had some safety concerns as well as communication concerns during the interview and training processes. JAN suggested a variety of options, including set paths of travel, vehicle requirement to stop at intersections, strobe lights, a bright colored vest or hat for the employee (provided this was acceptable to the employee), use of a personal vibrating pager, and a buddy system.*

Solution: The employer provided an interpreter for the interview process and parts of the training sessions, but discovered that the individual's hearing aids provided enough assistance for him to work safely. The employer also established set paths of travel, mirrors, traffic rules and strobe lights which improved the safety of all workers on the floor. Cost: $350 for the interpreter.

Cost Considerations

As businesses become more knowledgeable about the requirements of the Americans with Disabilities Act, many are able to make simple adjustments to the worksite with little or no advice from others. Recent JAN data show that 20% of accommodations cost nothing, and another 60% cost less than $1,000.

A requested accommodation that might appear too costly does not have to be accepted by the employer. The employer is free to explore other less expensive alternatives if they work just as well. It is also important to remember that accommodations or adjustments must be made on a case-by-case basis.

Follow-up Actions

Once the accommodation has been made, it must be maintained. For example, if the accommodation is providing an interpreter for general meetings or other types of work situations, make sure that an interpreter is scheduled as soon as the meeting is scheduled. If the accommodation involves the purchase of equipment, make sure the equipment is working properly and that it is serviced regularly. The maintenance may include staff sensitivity and attitudinal training, especially if the accommodation is made for a new hire who is the first person with a disability on staff. If the individual is promoted, transferred to another part of the company or the disability changes, accommodation needs may change, and should be re-assessed.

Resources

President's Committee's Job Accommodation Network
Phone: (800) 526-7234 (V/TDD)
Web site:
http://janweb.icdi.wvu.edu/english/homeus.htm

Equal Employment Opportunity Commission (EEOC)
Phone: Technical Assistance: (800)669-4000 (V) or
(800) 669-6820 (TDD)
Web site: http://www.eeoc.gov

Regional Disability and Business Technical Assistance Centers (DBTACs)
To contact DBTAC in your area:
(800) 949-4232 (V/TDD)
Web site: http://www.adata.org

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Preparing for and Conducting an Effective Job Interview

Accommodating Persons with Disabilities

Hiring the right person for the right job starts with conducting an effective job interview. As in any interview, you are interviewing a person with skills and abilities to determine if that individual is the best fit for your job opening. The following guidelines ensure that persons with disabilities are afforded a fair and equitable opportunity to present their job qualifications.

Preparing for the interview

1. Your company's application and interviewing procedures should comply with the Americans with Disabilities Act (ADA). The ADA prohibits disability-related questions or medical exams before a real job offer is made.

2. Make sure your company's employment offices and your interviewing location(s) are accessible to applicants with mobility, visual, hearing or cognitive disabilities.

3. Be willing to make appropriate and reasonable accommodations to enable a job applicant with a disability to present himself or herself in the best possible light. When setting up the interview explain what the hiring process involves and ask the individual if he or she will need reasonable accommodations for any part of the interview process. For example, if a person who is blind states he or she will need help filling out forms, provide the assistance; provide an interpreter for an applicant who is deaf, if he or she requests one; provide details or specific instructions to applicants with cognitive disabilities, if this type of accommodation is required.

4. Do not let a rehabilitation counselor, social worker or other third party take an active part in or sit in on an interview unless the applicant requests it.

5. Make sure that all questions asked during the interview are job-related. Speak to the essential job functions regarding the position for which the applicant is applying, as well as why, how, where, when and by whom each task or operation is performed. Do not ask whether or not the individual needs an accommodation to perform these functions, because such information is likely to reveal whether or not the individual has a disability. This is an ADA requirement to ensure that an applicant with a disability is not excluded before a real job offer is made.

Conducting the interview

1. Relax and make the applicant feel relaxed. Don't be afraid of making mistakes. At the same time, remember that candidates (particularly those applying for professional positions) are expected to assume an equal share of the responsibility for making your interaction with them successful.

2. Do not speculate or try to imagine how you would perform a specific job if you had the applicant's disability. The person with a disability has mastered alternate techniques and skills of living and working with his or her particular disability. If the applicant has a known disability (either because it is obvious or was revealed by the applicant) the employer may ask an applicant to describe how he or she would perform a certain job function if it is an essential part of the job. In addition, the employer may ask the individual if he or she needs reasonable accommodations and if so what type of accommodation. Remember, all questions should be job-related and asked in an open-ended format.

3. Concentrate on the applicant's technical and professional knowledge, skills, abilities, experiences and interests, not on the disability. Remember, you cannot interview a disability, hire a disability or supervise a disability. You can interview a person, hire a person, supervise a person.

4. Disability related questions and medical examinations are prohibited under ADA at the pre-employment offer stage. After a real job offer is made, the offer may be conditioned on the results of disability related questions and/or medical examinations, but only if the examination or inquiry is required for all entering employees in similar jobs and only if all medical information is kept confidential. Disability related questions and

medical examinations at the post-offer stage do not have to be related to the job. However, if the offer is withdrawn, the employer must show that the individual could not perform the essential function of the position or would pose a direct threat.

5. If testing is part of the interview process, make sure the test does not reveal information about physical or mental impairments (i.e., make sure it is not a medical examination.) Other tests which demonstrate the applicant's ability to perform actual or simulated job tasks are permitted under the ADA. Inform the applicant before the interview that a test will be part of the interview process. The applicant can then request an accommodation such as a different format for written tests.

6. If you are not prepared to make a commitment to hire her or him immediately, the usual reasons given to applicants who are not hired at the close of the interview apply: "Thank you for coming in, we will notify you in a few days of our decision," "It will be necessary for you to talk with the supervisor in charge of that unit," "The boss isn't available today," and so on.

For additional information

The Equal Employment Opportunity Commission (EEOC)
Technical Assistance: (800) 669-4000 (V), or
(800) 800-3302 (TDD)
Documents: (800) 669-3362 (V), or
(800) 669-3302 (TDD)
Website: http://www.eeoc.gov

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Disability Data Resources

Who are people with disabilities? What do we know about people with disabilities? How many individuals with disabilities use assistive devices? How many people with disabilities are working? What are people with disabilities' demographics? These are just a few of the questions that are asked every day as we develop and implement programs and strategies to combat the high unemployment rate of persons with disabilities. Numerous resources are available to provide statistical data to answer these questions and provide information on other disability related topics. Many resources now post their information on Web sites which makes researching disability data readily accessible and fast. Outlined below is information on some of the data resources regarding people with disabilities.

National Center on Health Statistics (NCHS)

The National Center on Health Statistics in 1998 made available national information on assistive devices used by people with disabilities from their National Health Interview Survey on Disability (NHIS-D), conducted in 1994. This is the first time national data on the use of assistive devices by people with disabilities has ever been released. The data covers: anatomical devices (braces, artificial limbs), mobility devices, hearing devices and vision devices. The complete NHIS-D survey is available in NCHS's Web site: <http://www.cdc.gov/nchswww/default.htm>. To obtain a print or CD-ROM copy, call (301) 436-7551. A CD-ROM is also available which offers far more disability data than appears either on their Web site or is available in print.

National Organization on Disability (NOD)

The 1998 National Organization on Disability/Harris Poll of Americans with Disabilities, a nationwide survey of 1,000 Americans with disabilities aged 16 and older, was conducted in mid-1998. This survey found that Americans with disabilities continue to lag well behind other Americans in many of the most basic aspects of life. Large gaps still exist between adults with disabilities and other adults with regard to employment, education, income, frequency of socializing and other basic measures of ten major "indicator" areas of life. Furthermore, most of these gaps show little evidence of narrowing. In some cases, the gaps have even widened over time.

Employment continues to be the area with the widest gulf between those who are disabled and those who are not. Forty two percent of those who are disabled and not working believe that attitudinal barriers keep them from working (i.e., that employers are unwilling to recognize that they are capable of taking on a full-time job). A significant majority of people with disabilities who work (64 percent) and people with disabilities who want to work (81 percent) have encountered supervisors and co-workers who are afraid that a person with a disability "cannot do the job."

The study provided some interesting data on the use of technology by persons with disabilities.

- Only one in four (25 percent) of individuals with disabilities who work and four out of ten (40 percent) of individuals with disabilities who want to work say they need special equipment or technology to perform effectively the kind of job they prefer.
- Half (49 percent) of people with disabilities who work full or part-time use computers at work. Those who work full-time are much more likely (60 percent) to use a computer than those who work part-time (35 percent).
- More than a quarter (28 percent) of people with disabilities own special equipment or technology to assist them because of their disability. The number has risen significantly since 1994 when it was 22 percent. Those who describe their disability as very or somewhat severe are more likely (33 percent) to own special equipment than those who characterize their disability as slight or moderate (19 percent).
- Fifteen percent of people with disabilities who work full or part-time, or would like to be working, need a personal computer.

For more information on this study visit NOD's web site: <http://www.nod.org>, or call (202) 283-5960 (V) or (202) 293-5968 (TDD).

The National Institute on Disability and Rehabilitation Research (NIDRR)

The National Institute on Disability and Rehabilitation Research is a federal government agency charged with maintaining disability statistics. Recently, NIDRR published "Chartbook on Work and Disability in the United States, 1998," a compendium of key findings from numerous statistical sources. It can be viewed on the Web site, or in print copy.

Web site:
<http://www.infouse.com/disabilitydata/workdisability.html>
Phone: (202) 205-5633 (V)

Disability Statistics Center

The Disability Statistics Center is a national center of research and training. The Center receives its primary funding from NIDRR. The Center has ongoing research projects on the cost of disability, employment and earnings, access to health and long-term care services, housing, mortality and national statistical indicators on the status of people with disabilities in America.

Web site: <http://www.dsc.ucsf.edu/>
Phone: (415)502-5217 (V)

The Census Bureau

The Census Bureau plans to include questions on disability in the 2000 Census. In the meantime, the Census Bureau maintains a disability statistics web site. The statistics include information on the numbers of persons with disabilities on a state-by-state and metropolitan area basis.

Web site:
<http://blue.census.gov/hhes/www/disable.html>
Phone: (301) 457-3242 (V)

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1331 F Street, NW, Washington DC 20004-1107
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Title 1 of the Americans with Disabilities Act (ADA)

Significant Court Cases

During the past eight years more than 1,000 reported court decisions have been rendered under Title I of the ADA, creating significant legal trends in the law's development. Many ADA cases are being resolved on summary judgments, rather than on the specific nature of various ADA issues, such as disability status and reasonable accommodation. "For the most part, courts are narrowing the definition of 'disability', imposing stricter criteria for establishing that a person with a disability is 'a qualified individual with a disability' and are reluctant to find that an accommodation is required" (Chris Bell).

Court findings on substantial limitations, the disability definition and reasonable accommodations are addressed below.

Substantial Limitation and Disability Definition

Issues

- A number of issues have been raised in court cases on the questions of what is a disability and whether an individual with a disability is "qualified."

- Issues have been raised around the provision which requires a disability to substantially limit a major life activity, and the provision which requires employees with such disabilities to perform the essential function of the job, despite the disabilities.

- Issues stemming from whether a person is "qualified" are (1) "What are the essential functions of the job?" and (2) "Can the individual perform the essential functions of the job with or without reasonable accommodations?" These issues have been at the core of many court rulings.

- Courts are ruling on the "substantial limitation" concept by determining when symptoms are severe enough to meet this criteria. This issue impacts people with cancer, psychiatric disabilities, multiple sclerosis, and other disabilities that have episodic symptoms.

Court Findings

- Several courts have found that there are no per se disabilities, although the U.S. Equal Employment Opportunity Commission's (EEOC) position states "that certain impairments (e.g., HIV) by their nature may be disabling" (Pritchard v. Southern Co. Service, 1996 U.S. App. LEXIS 22062 (11th Circuit) and Paulsen v. Beyond, Inc., No. 95-40107 (5th Circuit, June 18, 1996.)

- Courts have ruled that in order to be considered substantially limited in working, plaintiffs must be unable to perform across a class of related jobs, not just in one particular position or situation (Bolton v. Scrivner, Inc. 36 F.3d 939 (10th Circuit, 1984); Heilweil v. Mount Sinai Hospital, 32 F. 3d 718 (2nd Circuit, 1994); Byrne v. Board of Education. 979 F.3d 560 (7th Circuit, 1992).

- EEOC takes the position that an individual's disability status must be determined without regard to mitigating measures such as the impact of medication or a prosthetic device. A number of courts have adopted this position but it is not a unanimous federal court position. Increasingly, courts are evaluating EEOC's interpretations and examining whether an individual is substantially limited with medication or a prosthetic device. The 6th Circuit Court of Appeals in Cincinnati supported EEOC's and the U.S. District Court for Eastern Pennsylvania's position. Because of the differing opinions among federal courts, the issue is before the U.S. Supreme Court.

- Recent court rulings have determined that the applicant/employee must be able to perform all essential job functions with or without reasonable accommodations, and that a job does not have to be restructured to eliminate essential job functions. In addition, in some cases, regular attendance was found to be an essential function of most jobs.

Accommodations

Issues

- A number of issues have surfaced in court cases on the question "what is reasonable accommodation?"

- Issues on the employer's responsibility to continue to meet the reasonable accommodation needs of employees with disabilities have had much court attention.

- Issues regarding the employer's responsibility to grant open-ended scheduling or an indefinite period of leave as reasonable accommodation have resulted in a mixed reaction from the courts.

- Issues regarding the responsibility of the employer to provide reassignment and the scope of the reassignment have not resulted in a consensus from the courts.

Court Findings

- Generally, courts are recognizing that meeting ADA's requirement for "reasonable accommodation" is a "continuing duty" for employers and does not end after the first accommodation effort. For example, in Ralph v. Lucent Technology, BNA 7Ad cases 1, 3, 4, & 5, (1st Circuit 1998), a plaintiff with psychiatric disabilities originally was accommodated with leave time. Upon returning to work, the person requested another accommodation in the form of part-time work for four weeks. He was turned down by management. The 1st Circuit ruled against the company, stating "making reasonable accommodation is an ongoing obligation for the employer under the ADA."

- Courts also are rejecting employees with disabilities' requests for open-ended schedules or indefinite periods of leave. Appellate courts are beginning to focus on the reasonableness of the particular accommodation request, vis-a-vis costs and benefits. In addition, courts are reviewing the employer's total efforts at accommodation to determine sufficiency.

- Courts have determined that unpaid leave may be a form of reasonable accommodation. However, the granting of requests for indefinite, unanticipated, and/or unpredictable leave may not be required if it would result in an undue hardship.

- Some courts are deciding that an employer is not obligated to provide the best available accommodation as long as he/she provides an accommodation that is effective.

- EEOC and some federal circuit courts have ruled that reasonable accommodation includes the employer's obligation to reassign qualified employees with disabilities unable to perform the essential functions of their current position, with or without reasonable accommodations, unless the employer can show an undue hardship. However, the courts are split on this issue. The 7th Circuit Court (Gile v. United Airlines, 95 F.3d 492, 498 (7th Circuit 1996) and the 8th (Benson v. Northwest Airlines, Inc. 62 F.3d 1108, 1114-15 (8th Circuit 1995) have concurred with the EEOC position. Under Title I of the ADA, reassignment can be used as a means of accommodating an employee with a disability when accommodation in the employee's current position is possible, but difficult, for the employer. The 5th Circuit, in Foreman v. Babcock & Wilcox., 117 F. 3d 800, 807-09 (5th Circuit, 1997), ruled that if it is impossible for an employer to accommodate a worker in his or her present job, then there is no obligation to reassign. The conflicting decisions on this issue by the courts create the need for the Supreme Court to settle this issue.

As with any new law, clarification will come from court rulings and U.S. Equal Employment Opportunity Commission's policy guidance.

FOR ADDITIONAL INFORMATION CONTACT

President's Committee on Employment of People with Disabilities
(202) 376-6200 (V), (202) 376-6205 (TDD),
(202) 376-6219 (FAX)

Equal Employment Opportunities Commission:
For Technical Assistance: (800) 669-4000 (V) or
(800) 669-6820 (TDD)
http://www.eeoc.gov (Internet)

Article by Christopher G. Bell, President's Committee on Employment of People with Disabilities Employer Subcommittee member, entitled, "Some Key Trends in Judicial Decisions: Interpreting Title I of the ADA."

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People with Disabilities–Temporary Employment Options

According to the U.S. Bureau of Labor Statistics (BLS), since 1996 the number of people working or available for hire has only increased at the rate of 1.1 percent a year. BLS projects that the rate of increase of the labor pool will continue to shrink until at least 2006 because of the aging of the population. The booming economy, coupled with the tight labor market, provides a challenge to the country's business sector. As a result, employers will need new strategies to find pools of talent, hire quickly and retrain staff if they are to keep their companies competitive. One strategy being used to address this problem is the services of temporary staffing agencies.

The staffing industry has expanded rapidly during the last 25 years. Temporary employment placement has increased from 165,000 people in 1972 to more than two million in 1995, reflecting an annual growth rate of more then 11 percent. Nine out of 10 U.S. businesses use the services of a staffing industry firm, according to a recent survey by *Business and Legal Reports*. More then one-third of the companies surveyed plan to increase their use of staffing industry services. The BLS estimates that between the years of 1994 and 2005, temporary employment opportunities will expand by more than 50 percent.

Temporary staffing agencies may be one answer to people with disabilities finding employment opportunities. Qualified persons with disabilities represent a largely untapped labor source. Although some companies are already having trouble finding employees to fill their jobs, the unemployment rate for people with disabilities continues to be high. The 1995 Census Bureau's Current Population Survey indicates that fewer than one-third of the country's more than 16 million working-age, non-institutionalized persons with disabilities are employed. Three-quarters of persons with disabilities currently unemployed would rather be working according to the National Organization on Disability 1998 Harris Poll.

In addition to matching candidates with jobs, temporary staffing agencies are taking on additional human resource functions including training and evaluation. Many temporary jobs become permanent. Temporary staffing agencies are not only strong sources of qualified, experienced employees, but are also becoming an important resource for linking people with disabilities to full-time employment opportunities.

Temporary Staffing and Hiring People with Disabilities

Temporary staffing agencies work with people with disabilities in the same way they work with people without disabilities. "The ADA did not impact our business dramatically. From inception, our company focused on what people can do in the work place. That is our business, and that is how we create shareholder value," says Mitchell Fromstein, Manpower Chairman and Chief Executive Officer.

The focus of the job placement process for all applicants is on individual abilities, job skills and interests. The staffing industry uses job assessment services, temporary job assignments and work skills training to help individuals with and without disabilities find their employment niche. These services provide job seekers with opportunities to build a work history, experience different types of jobs, and increase their employment marketability and earning potential through enhancement of work skills.

The following features used by staffing agencies result in effective job placement for all persons:

- Individualized applicant assessment procedures
- Focus on individual abilities, job skills and interests
- Systematized skill assessments for a variety of tasks
- Matching employee skills to workplace demands based on an assessment of local customer needs
- Individualized job training
- Providing accommodations as part of the placement process

EEOC Policy Guidance

There is a lack of clarity concerning whether the employer or the temporary staffing agency is responsible for paying for accommodating temporary employees with disabilities. The following EEOC policy guidance may assist in this area.

- Title VII of the Civil Rights Act Policy Guidance, issued September 20, 1991, (IN-917-002), addressed what constitutes an employment agency; how charges against employment agencies should be investigated; and what remedies can be obtained for Title VII violations by these agencies. This guidance concludes that Title VII covers employment agencies, as well as employers, and prohibits discrimination on the basis of race, color, sex, religion or national origin.

- EEOC's policy guidance on the concepts of integrated enterprise and joint employer, issued May 6, 1987 (N-915) clarifies that the identity of the employer is based on economic realities of the relationship and extent of the party's control over means and manner of an employee's performance. Factors that can be used to determine economic realities and control are:

    - Level of skills required for the position
    - Location of the work
    - Duration of relationship of parties
    - Hiring party's rights to assign additional projects to employee
    - Extent of employee's discretion of how and how long to work
    - Method of payment
    - Whether hiring party is in business
    - Whether the work is part of hiring party's regular business
    - Whether hiring party provide benefits
    - Whether hiring party deducts employment-related taxes.

Resources

For additional information contact:

Equal Employment Opportunities Commission (EEOC)
For Technical Assistance: (800) 669-4000 (V) or (800) 669-6820 (TDD)
To Obtain Documents: (800) 669-3362 (V) or (800) 669-3302 (TDD)
Internet: http://www.eeoc.gov

President's Committee on Employment of People with Disabilities
(202) 376-6200 (V),
(202) 376-6205 (TDD),
(202) 376-6219 (FAX)

Study by Peter Blanck, President's Committee on Employment of People with Disabilities Communication Subcommittee member, entitled, "The Emerging Role of the Staffing Industry in the Employment of Persons with Disabilities: a Case Report on Manpower, Inc.," 1998.

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Technology and People with Disabilities

Technology creates gateways to jobs, training and education for people with disabilities. Specialized devices, also known as assistive technology, together with generic or mainstream technology products and services that have been designed with the widest number of users in mind ("universal design"), can enhance the ability of person with a disability to earn a living.

The U.S. Census Bureau 1992 Survey of Income Program Participation identified more than 22 million Americans who have functional limitations in hearing, seeing or having their speech understood. In addition, millions of individuals with cognitive disabilities (e.g., mental retardation, learning disabilities) have difficulty using the products and services developed by America's telecommunications and information technology industry sectors. With America's population aging, the implications for manufacturers and developers of assistive technology and mainstream technologies are clear: there are critical, and growing, numbers of people who cannot with ease—

- hear and manipulate voice menus and instructions
- see what is displayed on computer screens and other read-out devices
- walk, wheel up to or physically operate devices that access information (e.g., computer kiosk, computers)
- speak to a human or electronic operator, or have great difficulty in doing so
- manage controls, buttons, levers and switches
- understand, or who become confused, when using or operating communication devices and services.

Electronic Tools That Help

People with various disabilities are able to do what many people without disabilities take for granted when access needs are incorporated into mainstream products or when adaptive devices are readily available. Listed below are just a few examples.

- adapted computer keyboards and large button key pads
- computer software zoom and large print features
- closed captioning for video products
- web browsers that work for people with visual problems
- E-mail text or audio messaging
- pagers that vibrate
- talking caller ID

Federal Laws

People with disabilities are at a disadvantage when essential job functions require using or operating technology devices and services, or manipulating information appliances to access work-related content, if products and services have not been designed with disability in mind. Federal laws which help address these problems for people with disabilities are discussed below.

Telecommunications Act of 1996: PL 104-104

- Section 225 (Relay Services) mandates a nationwide system of telephone relay services to enable people with hearing and speech disabilities to have phone conversations with employers, friends, family and others.

- Section 255 (Access by Persons with Disabilities) requires all manufacturers of telecommunications equipment and providers of telecommunications services to ensure that equipment and services are designed, developed and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

- Section 713 (Video Programming Accessibility) ensures that video services (e.g., movies, television) are accessible to individuals with hearing and speech disabilities through closed captioning. Section 713 also addresses the issue of video description for people with visual impairments.

Several other sections of the Telecommunication Act will change how communication services are delivered. These changes will benefit people with disabilities if their access needs are considered.

- Section 251 (Interconnection) states that telecommunications carriers cannot install network features that take away or reduce functionality for users with disabilities.

- Section 256 (Coordination for Interconnectivity) provides that access by people with disabilities be

addressed by the industry in telecommunications network planning.

Rehabilitation Act, P.L. 105-220
Section 508 requires that electronic and information technology developed, procured, maintained or used by the Federal government must be accessible to people with disabilities, unless it would pose an undue burden to do so. This includes both employees of Federal agencies and customers of Federal agencies who use information technology devices (e.g., kiosks, computers, electronic voting booths) to access government information and interact with government agencies. Federal agencies must be in compliance with these technology accessibility standards for all electronic and information technology acquired on or after August 7, 2000. If it is an undue burden to comply with these standards, the agency must still provide information and data to individuals with disabilities through an alternative means of access.

In general, an information technology system is accessible to people with disabilities if it can be used in a variety of ways that do not depend on a single sense or ability. For example, a system that provides output only in audio format may not be accessible to people with hearing impairments, and a system that requires mouse actions to navigate may not be accessible to people who cannot use a mouse because of a dexterity or visual impairment. Some individuals with disabilities may still need specific accessibility-related software or peripheral devices to be able to use Section 508 compliant systems.

Since the Federal government purchases millions of dollars of information technology each year, Section 508 standards will have great impact on how information technology products and services are designed in general and will have a great spill over effect in the private sector. Thus a major barrier to employment for people with disabilities will fall.

Assistive and Information Technology Resources on the Web

The Trace Center is a research, development and resource center on technology and disability at the University of Wisconsin-Madison.
http://trace.wisc.edu/

The Research Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) Web site provides an alphabetical listing of each state's technology-related assistance project with contact person, phone number, address and hyperlink to the state Web page. Contact the program to ask what services they provide.
http://www.resna.org/tap/person/p_direct.htm

Web Accessibility Initiative (WAI) works to make Web page formats and protocols accessible to people with disabilities so that Web page creators can build in usability for people with disabilities.
http://www.w3.org/WAI/

United Cerebral Palsy Associations (UCPA) provides disability policy information (i.e. fact sheets on how to get assistive technology paid for if on SSI or SSDI.)
http://www.ucpa.org/text/innovative/dtfsc/index.html

President's Committee on Employment of People with Disabilities' Job Accommodation Network (JAN) has a database of assistive technology products used in making jobs accessible.
http://janweb.icdi.wvu.edu/english/homeus.htm

U.S. Access Board develops standards for accessible information technology. See rules at <http://www.access-board.gov>.

Federal Communications Commission (FCC) has many rulemakings involving disability issues. Click to Disability Issues Task Force (DITF) page or use the search engine at <http://www.fcc.gov>.

Center for Information Technology Accommodation (CITA) is the General Services Administration's technical demonstration and resource center in Washington, DC, that provides federal agencies data about information technology.
http://www.itpolicy.gsa.gov/coca/index.htm

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Writing and Formatting a Scannable Resume

What Job Seekers with Disabilities Need to Know

Because we are living in an information age where technology drives most interactions, resumes sent via E-mail and traditional paper are likely to be scanned for key information by a machine, not a human being.

What It Means to Have Your Resume Scanned By a Machine

Because employers receive more resumes than they can process efficiently, they are switching to text-searching or artificial intelligence software to track resumes. These systems use optical scanners to put resumes into the computer which then searches for skills that match a job description. Optical character recognition—OCR—software looks at the image to distinguish every letter and number and creates a text file. Such systems are important because they significantly lessen the time it takes to search for qualified applicants to fill a job. These systems can also help employers by creating a centralized resume pool in companies that have a decentralized human resource function.

Why Scannable Resumes Are Important to Your Search

In order to efficiently review resumes, an increasing number of employers are letting computers take the first crack at selecting a first round of applicants for certain jobs. Because computers are programmed to search for certain words, every word in a resume is important in the selection process. Artificial intelligence software "reads" the text and extracts important information such as your name, address, work history, experience and skills. A clear resume allows the scanner to obtain a clean image in order to maximize "hits" (when one of your skills matches the computer search).

How to Prepare a Resume That Will Scan to Jobs You Are Seeking

Following are important tips on making your resume "scan-friendly."

- Use a standard typeface such as Courier, Helvetica, Futura, Optima, Universe or Times with a point size of 10-14.
- Use black ink on white 8 1/2 x 11 inch paper. Do not use colored paper.
- Use only capital letters or boldface to emphasize important information. Do not use italics, underlining, boxes, graphics, or horizontal or vertical lines.
- Avoid a two-column format or resumes that look like newspapers or newsletters.
- Use only a laser-quality printer.
- Do not fold or staple pages.
- If faxing, use fine resolution and follow up with a mailed original.
- Avoid "formatting peculiarities." If you use E-mail, save your file as "text only" or "ASCII" to avoid the possibility that your word processor and your prospective employer's word processor are incompatible. E-mail a copy of your resume to yourself to make sure it looks the way you meant it to look.
- Use "key-words"—phrases, terms, industry jargon, and titles to describe your abilities. Describe your experience with concrete words rather than vague terms. Be sure to use state-of-the-art terminology to describe yourself. If you have been out of the job market awhile, research new developments in your field and use up-to-date terms to present your skills. Savvy job seekers often mimic the words a company uses in its help-wanted ads. The more skills and facts you provide, the more opportunities you have for your skills to match available positions.

- Be concise and truthful.
- Use more than one page if necessary.
- If you have extra space, describe your interpersonal traits and attitude. Key words could include: time management, team player, dependable, leadership, and responsibility.
- Use a keyword summary of your skills at the top of your resume to get the attention of robotic and human inspectors. For example, if you are looking for an entry level position in architecture, your keyword summary might include: BS in Architecture, internship experience with large commercial project, knowledge of AutoCAD, PhotoShop, AccuRender, 3-D Studio. Place your name on its own line at the top of the page. Use the standard format for your address below your name. Then list each phone number on its own line.
- For job search purposes you may choose to have two versions of your resume:
  - One to send for the computer to read (scannable format and detailed descriptors).
  - One for people to read during an interview (a creative layout, enhanced typography, and summarized information.)
- Be sure to proofread your resume before sending it.

How Hiring Managers and Recruiters Use Electronic Applicant Tracking Systems

Typically, hiring personnel set up a search request and tell the computer whether certain qualifications are required or desired. Many resume-scanning systems then rank the candidates they select from the system. Some of the leading systems place a number or percentage next to a candidate's name indicating how many of the manager's requirements are reflected in the resume.

As we move into the 21st century, it is important to use technology to find a job. If you push yourself to go the extra mile in your job search, you will find the opportunity you are seeking.

This tip sheet was prepared with the help of EDS. EDS participates in the President's Committee's Business Leadership Network (BLN), a business-led initiative that aims to stimulate best disability employment practices and enhance employment opportunities for job candidates who happen to have disabilities.

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COMMITTEE
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1331 F Street, NW
Washington, DC 20004-1107
http://www.pcepd.gov (Internet)

202-376-6200 (VOICE)
202-376-6205 (TDD)
202-376-6859 (FAX)
info@pcepd.gov (E-mail)